

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICAH CAMERON FLAHERTY,

Case No.: 3:20-cv-00666-RCJ -WGC

Plaintiff

Order

v.

DARIN BALAAM, et. al.,

Defendants

When Plaintiff filed his application to proceed *in forma pauperis* (IFP) and pro se civil rights complaint, he was a detainee in the Washoe County Detention Facility.

The Local Rules of Practice for the District of Nevada provide: “Any person who is unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma pauperis* (IFP). The application must be made on the form provided by the court and must include a financial affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1.

When an inmate seeks to proceed without prepaying the filing fee, in addition to filing the affidavit, the prisoner is required to submit a certified copy of the trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. The statement must be obtained from the appropriate official at the prison or detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

When an inmate brings a civil action IFP, the inmate is still required to pay the full amount of the filing fee. The court is required to assess, and when funds exist, collect an initial partial payment of 20 percent of the greater of: (A) the average monthly deposits in the prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-

1 month period immediately preceding the filing of the complaint. Thereafter, whenever the
2 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
3 preceding month's income credited to the prisoners account until the filing fees are paid. The
4 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
5 (2). The filing fee is \$350, plus an administrative filing fee of \$50 (which increased to \$52 after
6 Plaintiff filed his application and complaint). If an inmate is granted IFP status, he only has to
7 pay the \$350 filing fee over time, and not the administrative fee.

8 A non-inmate who is granted IFP status, does not have to pay the filing fee or
9 administrative fee.

10 An inmate search on the Washoe County Detention Facility's website of Plaintiff's name
11 indicates that Plaintiff is not currently detained there. An inmate search of Plaintiff's name on the
12 Nevada Department of Corrections (NDOC) website indicates Plaintiff has been
13 released/discharged. Therefore, it appears Plaintiff is not currently detained or incarcerated, and
14 if this is the case, he would not be required to pay the filing fee over time.

15 Additionally, a pro se party is required to immediately file with the court written
16 notification of any change of mailing address, and a failure to comply with this rule may result in
17 the dismissal of the action or other appropriate sanction. LR IA 3-1.

18 Within 30 days of the date of this Order, Plaintiff shall file a written notification updating
19 his contact information, including his current mailing address. In addition, if Plaintiff is not
20 currently detained or incarcerated, along with his updated contact information, he shall also file
21 within 30 days of the date of this Order, a completed IFP application for a non-inmate, or pay the
22 \$400 filing fee. If Plaintiff fails to comply with this Order, his action may be dismissed.

CONCLUSION

Within **30 days** of the date of this Order, Plaintiff shall file a written notification updating his contact information, including his current mailing address.

In addition, the Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP for a non-inmate. If Plaintiff is not currently detained or incarcerated, he shall also file within **30 days** of the date of this Order, a completed IFP application for a non-inmate, or pay the \$400 filing fee. If Plaintiff is still detained or incarcerated, he shall notify the court of this within the **30 days**.

If Plaintiff fails to comply with this Order, his action may be dismissed.

IT IS SO ORDERED.

Dated: March 31, 2021



William G. Cobb
United States Magistrate Judge